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AUTHOR Taylor, K. Phillip; And Others
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ABSTRACT

An examination of the impact that process instructions have on jury deliberations was conducted using ten juries of six members each. Five of the juries were given standard jury instructions, while the remaining five were given step-by-step instructions in the deliberation process designed especially for that trial. The results indicated that process instructions significantly reduced the time required to reach a verdict. A content analysis of juror statements revealed that jurors receiving standard instructions expressed significantly more statements of opinion than jurors receiving process instructions. The two groups did not differ in 14 other content areas, and all but one jury (a "hung" jury) reached "not guilty" verdicts. (RI)

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HOW DO JURORS REACH A VERDICT? A FIELD EXPERIMENT

by

K. Phillip Taylor, Ph.D., Indiana University
Professor of Communication
University of Central Florida

Raymond W. Buchanan, Ph.D., Louisiana State University
Professor of Communication
University of Central Florida

Bert Pryor, Ph.D., University of Michigan
Associate Professor of Communication
University of Central Florida

David U. Strawn, J.D., University of Florida

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ABSTRACT

The present study: (1) analyzed the kinds of statements jurors make as they deliberate a verdict in a criminal trial, and (2) compared standard instructions with step-by-step instructions to determine if the change improves deliberation efficiency. The results indicate that process instructions significantly reduced the time required to reach a verdict. A content analysis of juror statements revealed that jurors receiving standard instructions expressed significantly more statements of opinion than jurors in the second group. The two groups did not differ in fourteen other content areas.

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HOW DO JURORS REACH A VERDICT? A FIELD EXPERIMENT *

The sanctity of the American courtroom has long protected it from invasion by social scientists interested in studying the trial process within its natural context. Available research generally focuses on the behavior of mock jurors in simulated trials (Bray and Noble, 1978; Kerr, 1978). The "camera in the courtroom" projects in Florida and several other states, however, indicate that the courtroom doors are opening to scholars and laymen interested in judicial procedures (Buchanan, Pryor, Meeske, and Strawn, 1979). Other recent research reports further illustrate the increased interest in courtroom communication (Kaplan and Miller, 1978; Lind, Erikson, Conley, and O'Barr, 1978).

Research using subjects drawn from actual jury venires indicates that jurors may not completely understand the standard pattern instructions currently administered in many jury trials (Buchanan, Pryor, Taylor, and Strawn, 1979). Other research evidence suggests that juror attitudes toward the law are influenced by the juror's understanding of the law (Taylor, Pryor, Buchanan, and Strawn, 1979).

An innovation in trial procedure of special interest to communication researchers is the focus of the present investigation. Step-by-step process instructions were developed to guide jurors in their deliberation. Process instructions have been shown to increase the goal clarity and efficiency of problem-solving groups (Shaw, 1976). In addition, Maier (1963) reported that a "developmental" discussion procedure produced greater efficiency and higher quality decisions than did groups not provided with an organized plan for decision making. Although process instructions have been used in actual

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civil and criminal cases (Strawn, Buchanan, Pryor, and Taylor, 1977; Taylor, Buchanan, Pryor, and Strawn, 1978), no data were available to assess the merits of this instruction technique over traditional methods. This study examined the impact of process instructions in a judicial environment, the jury deliberation room. Two research questions were asked: (1) What kinds of statements are made as a jury deliberates its verdict? (2) Does the use of process instruction alter the deliberation process?

METHOD

Data for the present study were collected at the Titusville, Florida Courtroom between August, 1977 and August, 1978. Ten six-person juries were selected using voir dire procedures developed for this study. In Florida, potential jurors are called for one week service as members of the jury venire. When the trial calendar for the particular week was completed, available veniremen reported to a courtroom and were informed that they were to participate in a televised trial. The use of television was explained as a means of removing sustained objections and thereby expediting the trial process. The potential jurors, usually between fourteen and eighteen persons, would then be questioned individually from a standard questionnaire developed by the judge residing at the televised trial in consultation with several prosecution and defense lawyers. Predetermined point values were assigned to each answer. High scoring respondents were considered pro-prosecution and excused. Low scoring respondents were viewed as pro-defense and were also excused. In this manner, the six jurors who scored in the mid-range of the respondents were selected as the jury in each trial. This procedure approximated actual jury selection and maintained the necessary methodological control.

After jury selection, a pre-recorded videotape of the trial of Johnson Walker was shown to the jury. Walker was accused of the crime of burglary. Unknown to the jury, the trial was a fictitious dramatization prepared to balance the points at issue favoring guilt and innocence.

Five juries received Florida's Standard Jury Instructions as usually delivered in a burglary trial. These instructions were prepared by a State Supreme Court Committee composed of lawyers and judges. They were designed to be basic and uniform in nature and serve as accurate instruction models in all criminal cases in the State.

In general, the instructions are broken down into three content areas. First, Preliminary instructions are delivered before a trial begins. General instructions include elements common to most crimes. Specific Crime instructions deal with particular crime categories like homicide, arson, and robbery. Our study used the Standard Instructions for burglary.

Pattern instructions serve to define and explain the law as impartially and accurately as possible so that a jury can understand the parameters in which they must operate in making their decision. The pattern instructions are printed on loose-leaf sheets. The judge, in consultation with the attorneys, selects that part of the instructions appropriate to the case at hand, organizes them as needed and then reads them to the jury. For example, in the present burglary case before the trial began, the judge read the Preliminary Instructions. At the conclusion of the trial, he instructed the jury as to the appropriate General Instructions and the instructions relating to the specific case at hand.

The remaining five juries were instructed by the presiding judge using process instructions designed especially for the present trial.

Process instructions differ from the standard instructions in that they explain to the jury not only the law, as do the standard instructions, but also provide a step-by-step process for the jury to follow in their deliberations. Each step comprises a component issue in the case and must be resolved before the jury can move on to the next step. If each issue is resolved as alleged by the prosecution, the state has proven its case. If any one question is answered contrary to the charges, the state has not proven its case and the jury must find the defendant not guilty.

The procedure followed in instructing the five experimental juries was as follows. First, the juries received preliminary instructions. These instructions included not only general admonishments and instructions to the jury, but a breakdown of the process to follow in their deliberation, thus alerting them ahead of time to the critical issues in the case. The jurors were given a copy of the instructions to read along with the judge. At the conclusion of the oral preliminary instructions, the copies were collected from the jury by a research assistant, posing as a court clerk, and the televised trial began. At the conclusion of the trial, final instructions were distributed to the jury in writing and read by the judge. These instructions, again contained the step-by-step process the jury was to follow, along with other appropriate general instructions, such as the instructions on circumstantial evidence, reasonable doubt, and presumption of innocence. The process portion of the instructions was presented to the jury as follows:

FINAL CHARGE TO THE JURY

Definition of The Crime

Members of the jury, I thank you for your attention during this trial.

Please pay attention to the instruction I am about to give you. This is an extremely important part of this trial. Johnson Walker, the defendant in this case, has been accused of the crime of burglary. Mr. Walker can be convicted of committing a crime, depending on your answers to the following questions. You must unanimously agree that your answers, if they will result in finding the defendant guilty, are proven beyond any reasonable doubt. You must decide these facts in order, beginning by deciding:

1) WAS HE INSIDE THE HARRISON APPLIANCE STORE? If yes, go on to paragraph #2. If no, immediately return a verdict of - not quilty and tell the bailiff you want to return to the courtroom.

2) WAS THE HARRISON APPLIANCE STORE CLOSED TO THE PUBLIC AT THE TIME MR. WALKER WAS INSIDE? If yes, go on to paragraph #3, if no immediately return a verdict of not guilty and tell the bailiff you want to return to the courtroom.

3) WAS MR. WALKER INVITED TO BE IN THE HARRISON APPLIANCE STORE AT THE TIME HE WAS THERE? If no, go on to paragraph #4, if yes, immediately return a verdict of not guilty and tell the bailiff you wish to return to the courtroom.

4) DID MR. WALKER HAVE LEGAL AUTHORITY OR INVITATION TO BE IN THE HARRISON APPLIANCE STORE AT THE TIME HE DID SO? If yes, immediately return a verdict of not guilty and tell the bailiff you want to return to the courtroom. If no, go on to paragraph #5.

5) WHEN MR. WALKER WAS IN THE HARRISON APPLIANCE STORE DID HE HAVE AN INTENTION TO COMMIT A FURTHER CRIME? If yes, go to papragraph #6, if no skip to paragraph #7 and decide it.

6) WAS THE CRIME HE INTENDED TO COMMIT TO STEAL AN OBJECT OR OBJECTS? If yes, you should return a verdict of guilty of burglary; if no, go on to question #7.

7) DID MR. WALKER ENTER OR REMAIN INSIDE THE HARRISON APPLIANCE STORE WITHOUT LEGAL AUTHORITY BUT NOT TO COMMIT AN ADDITIONAL CRIME. If yes, you should find Mr. Walker quilty of trespass; if no, you should find Mr. Walker not guilty of any offense.

There are only two possible convictions in this case, BURGLARY or TRESPASS. If Mr. Walker is not guilty of burglary or trespass, you must return a verdict of NOT GUILTY.

Following the presentation of the judge's instructions to the jury, the jurors in both treatment conditions retired to the deliberation room to consider their verdict. The five juries who used process instructions were allowed to take copies of the instructions with them into the deliberation room so they could follow the process with ease. The usual practice is not to provide Florida juries with copies of the judge's instructions unless it is a capital crime. Thus the juries who received standard instructions in the present study did not take copies of the instructions into the deliberation room. Unknown to the jurors and with special permission of the Supreme Court of Florida, and audio recording was made of each jury deliberation. When the jury returned to the courtroom with its verdict, the verdict was announced. The jurors then viewed a videotape designed to explain the nature and significance of the project. It was further explained that the special equipment used to record their deliberation was constructed to preclude unauthorized persons from listening to their comments. If each juror granted permission, the audio tape would be analyzed to determine the kinds of statements made during jury deliberations. If any juror refused permission to listen to the tape, it would be erased in the presence of the jury. All jurors in the present study granted permission for the tapes to be analyzed.

RESULTS

Of the ten jury deliberations only one in the standard instruction condition was unable to reach a verdict. The single jury that was unable to reach a unanimous decision after ninety minutes of deliberation was declared a "hung jury" and the session was terminated. All other juries reached a verdict of

"Not Guilty". The average deliberation time for those juries who received the standard instructions used in similar trials in Florida was 62.3 minutes. Juries who received the innovative process instructions required an average of 28.8 minutes to arrive at a verdict. A two-tailed t-test analysis indicated that the process instructions significantly reduced jury deliberation time ($t=4.38$, $p. < .01$).

A Bales-type categorization system was used to analyze the statements made during the deliberation process. Fifteen types of content area references were identified from the audio tapes. The content categories used in the present investigation were references to: (1) The deliberation process; (2) The judge's instructions; (3) Presumption of innocence; (4) The implications of a not guilty plea; (5) Lesser included offenses; (6) Reasonable doubt; (7) Circumstantial evidence; (8) Burden of proof; (9) Witness credibility and demeaner; (10) Personal opinion or narratives; (11) The judge; (12) The defense attorney; (13) The prosecuting attorney; (14) Witnesses; (15) The evidence.

Only three of the fifteen categories contained sufficient statements or make a meaningful comparison between the statements made by those who received the standard instructions and those jurors who received the process instructions. The "Personal Opinion or Narrative" category contained an average of 2.47 references per minute in the standard condition and 1.59 references per minute in the process condition ($t=9.38$, $p < .01$). The other categories of particular interest in this investigation were the "References to the Deliberation Process" and the "Reference to Judge's Instructions" categories. It was thought that the use of process instructions would increase jurors' attention and increase the number of references made to the instructions.

This was not the case. Because of the low number of statements made in these two categories, they were combined before making a statistical comparison. Even after combining the categories, the standard instruction groups made an average of only 0.22 references per minute to the judge's instructions or the deliberation process. The process groups, with a mean of 0.25 references per minute, did not differ significantly from the standard groups in these areas. In none of the other content categories was a significant difference found between the standard instruction juries and those who received the process instructions.

DISCUSSION

Only one jury was unable to reach a verdict in the present study. The remaining nine verdicts all were "Not Guilty". This finding supports the observation that, although two different instruction formats were followed, the ultimate verdicts were the same.

Process instructions did produce a great savings in the time required to reach a decision. Less than half the time to reach a verdict was required by the juries who followed process instructions that was needed by those functioning under the usual instruction method. If such a savings could be realized in actual deliberations, a major economic benefit would be gained for the judicial system.

Foss (1976) reported that juries tend toward equalitarian decision making. This implies that each juror receives a fair hearing by the group. The present investigation supports this view. Although nine of the ten juries arrived at consensus, considerable diversity of opinion and astute questioning of the evidence characterized every deliberation. The single jury that failed to agree on a verdict was split five to one in favor of

"Not Guilty" at the time the deliberation was terminated. This provides additional support for the observation that all points of view are presented and discussed.

The present study provides previously unavailable information concerning how jurors in an actual courtroom context arrive at a verdict. Although the researchers identified fifteen different content areas referred to in the course of various deliberations, more statements of personal opinion and narrative were made than any other category.

The comparison between deliberations by juries who received standard instruction and those who employed a step-by-step format produced no significant differences in quantity of references to the instructions- the evidence, the trial participants or any content category other than the one labeled "Personal Opinion or Narrative." In this single content area, process in-instructions significantly reduced the number of opinion statements or personal narratives. This reduction apparently accounts for the less time required by the process instruction groups to reach a decision. Process instructions seem to keep the deliberation oriented toward the crucial issues in the case. They discourage irrelevant and inappropriate statements that do not advance the group toward its goal.

The present study is a tentative first step in an attempt to understand how juries deliberate. This initial investigation also suggests one way that the deliberation can be made more efficient. Process instructions are but one possible means of increasing the efficiency of small group decision making. Future research may indicate the significance of other communication variables such as orientation behavior or overt hostility within the deliberation room. The impact on the defendant's credibility by having the accused testify

in his own behalf can also be studied with the method used in the present study. The ramifications of allowing still and television cameras in the courtroom is another of the many important areas communication researchers will pursue now that the doors to the courtroom are opening.

The increased access to the courtroom illustrated by the present investigation, will benefit social scientists, legal professionals and the public. As social scientific theories are field tested for external validity, courtroom procedures can be modified and improved. The current research demonstrates the functionality of process instructions within a judicial context and suggests one area where cooperation between social scientists and legal professionals may be mutually beneficial.

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